CFI00 (3) (6)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH

AT BILASPUR (C.G.)

Writ Petition (C) No. 5334/2006

PETITIONER

Manik Das Manikpuri, Son of Shri Jhulan Das Manikpur, aged about 36 years, Ex-Sarpanch, Gram Panchayat – Bilaspur, Block and Tahsil – Bilaigarh, District Raipur (C.G.)

P.R. No. 5363/06
Present: Jayanta Nandi
dated 25/9/06

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through – the Secretary, Department of Panchayat and Social Welfare Department, D.K.S. Bhawan, Raipur (C.G.)
2. The Collector, Raipur (C.G.)
3. The Specified Officer – Cum Sub Divisional Officer – Bilaigarh, Distt. Raipur (Chhattisgarh)
4. The Chief Executive Officer, Janpad Panchayat – Bilaigarh, Distt. Raipur (Chhattisgarh)
5. Shri H.C. Dahariya, Nayab Tahsildar, Presiding Officer of Gram Panchayat Bilaspur, Tah. Bilaigarh, Distt. Raipur (C.G.)
6. Gram Panchayat – Bilaspur, through – Secretary – Gram Panchayat Bilaspur – Janpad

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OATH COMMISSIONER
APARNA MALVIYA
CG
25/09/06
Bilaspur Chhattisgarh

(7) (4)

Panchayat Bilaigarh, Distt. Raipur (C.G.)

7. Tulashi Ram Sahu, s/o. Khafalu
8. Smt. Tiharin Bai wife of Tikaram
9. Shri JivanLalSahus/oRam Dhan,
10. Smt Ramayan Bai, W/o Bhogilal
11. Smt. Janki Bai W/o Devdhar
12. Smt Sukamat Bai W/o. Konda
13. Smt. Dhamyantin Bai W/o. Sitaram
14. Smt Prabha Bai W/o Charan
15. Devnath Sahu S/o Chunnu Lal
16. Jivan Lal Karsh S/o. Shantram
17. Narsing Jayashwal S/o. Shriram
18. Shobharam S/o. Udaychand
19. BhodharamJayashwalS/o. Shukhiram
20. Smt Ramshila Bai W/o Fagulal
21. HetramMahilaneS/OBishahuram
22. GhanshyamKhareS/o Accheram
23. Bholaram Soni S/o. Dashrath.

Respondents No. 7 to 23 are the Panchas of Gram Panchayat - Bilaspur and resides at village Bilaspur, Tah. & Block Bilaigarh, District Raipur (C.G.)

24. Santosh Kumar Sahu, Ex-Panchayat Secretary, Gram Panchayat -- Bilaspur R/o.

OATH COMMISSIONER APARNA MALVIYA COURT NO. 60 Bilaspur (C.G.)

Gram – Bilaspur, Block Bilaigarh Distt. Raipur (C.G.)

WRIT PETITION UNDER ARTICLES 226 / 227 OF THE CONSTITUTION OF INDIA

(70)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (C.) NO.5334 OF 2006

Petitioner	:	Manik Das Manikpuri
	Versus	
Respondents	:	The State of Chhattisgarh and others

Present : Mr. J.N.Nande, counsel for the petitioner.
Mr. N.K.Agrawal, Deputy Advocate General with Mr. Arun Sao, Government Advocate for respondents No.1 to 3.
Mr. Ayaz Naved, counsel for respondent No.6.
None appears for other respondents.

ORDER
(Passed on 6th Day of December, 2006)

The petitioner was elected Sarpanch of Gram Panchayat Bilaspur, Janpad Panchayat Bilaigarh, District Raipur. A proposal for no confidence motion was moved against the petitioner with prior notice on 6-5-2006. There were 19 members in the Gram Panchayat Bilaspur. One member expired and one member remained absent in the meeting held on 6-5-2006. 17 members were present and participated in the said meeting. The resolution for no confidence motion was passed against the petitioner by 14 members out of the present 17 members of the Gram Panchayat in the said meeting dated 6-5-2006 (Annexure P-4). 2 members voted against the no confidence motion and vote of one member was declared void.

(71)

2. The petitioner has filed this petition impugning the order of the Collector dated 31-8-2006 (Annexure P-11), wherein the Collector has held that the proceeding of the meeting dated 6-5-2006 was legal.

3. Learned counsel appearing for the petitioner submits that the no confidence motion passed against the petitioner in the meeting dated 6-5-2006 (Annexure P-4) is null and void, as 9 Panchas of the Gram Panchayat Bilaspur were not served with the notice of the meeting dated 6-5-2006 before the said meeting, but they were present and participated in the voting without any protest about notice.

4. Be that as it may, it is admitted that the resolution was passed by overwhelming majority and the no confidence motion against the petitioner was carried out by 14 members out of the present 17 members of the Gram Panchayat in the said meeting dated 6-5-2006 (Annexure P-4). Only 2 members voted against the no confidence motion and vote of one member was declared void. This Court, in *Ghanshyam Yadav* vs. *Rameshwar Sahu and others* (Writ Petition No.6774 of 2006, decided on 5-12-2006), has held that in the event, the resolution is passed by overwhelming majority, the no confidence motion cannot be declared null and void. The facts of this case are similar to that of Writ Petition No.6774 of 2006.

5. Thus, for the above-stated reasons, the writ petition is dismissed. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

Gopal